

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES	)	
	)	
v.	)	Docket No. 1:06-CR-10242-RWZ
	)	
JOSEPH FAGONE,	)	
	)	
Defendant.	)	
_____	)	

JOSEPH FAGONE’S MEMORANDUM ON DISPOSITION  
FOR FINAL HEARING ON SUPERVISED RELEASE VIOLATION

Defendant Joseph Fagone, who has suffered from a lifetime of trauma, needs mental health support services to combat his substance use disorder and other challenges to enable him to return to society, support himself and live as a productive citizen. He respectfully asks that the Court consider these needs at it shapes its disposition.

Background

As was discussed at length when he last appeared in court on June 21, 2016, and in the psychiatric evaluation report submitted by Dr. Julia Reade at that time, Mr. Fagone survived an extraordinary amount of trauma in his childhood and youth.

Much of this history of trauma was outlined in the Presentence Report from 2007 which indicates that Mr. Fagone had a highly traumatic and disrupted childhood. His father, who was not consistently present, “drank too much” and was physically abusive. (PSR ¶¶ 81, 83.) His mother was neglectful (to the point of abandonment) and abusive (allegedly threatening her children with a knife and beating them). Id. ¶ 85. She was addicted to drugs and forced Mr. Fagone and his older brother to steal things to get her drug money; she died when he was

approximately 12 years old. Id. ¶¶ 83, 85. Mr. Fagone was in multiple foster care and DSS placements, and was ultimately committed to Department of Youth Services (DYS) care until his 18<sup>th</sup> birthday. Id. ¶¶ 87. Records indicate that Mr. Fagone was identified as having “generalized cognitive deficits” and was diagnosed with ADHD and prescribed medication for that condition. Id. ¶¶ 114, 115. At various times he has been suicidal and/or engaged in self-injurious behaviors, id. ¶¶ 73, 118, 119, 120, has a history of alcohol and substance abuse, id. ¶¶ 123-128, and has had multiple psychological evaluations none of which are recent, see, e.g., id. ¶¶ 110A, 115, 120. The Sentencing Memorandum submitted in March 2008, outlines other traumas experienced by Mr. Fagone during his childhood, and notes that DSS records indicate that he was also diagnosed with post-traumatic stress disorder. (Sent. Mem. 3-4; Document 72.)

Dr. Reade’s evaluation led her to conclude that “Mr. Fagone is a complicated man with a complex trauma history, largely undefined but significant cognitive deficits, few coping skills, a long history of polysubstance abuse/dependence, and poorly characterized anxiety symptoms.” (Reade letter 6/20/16 at 3.) Dr. Reade concluded that, “in order to construct an appropriate treatment plan for Mr. Fagone – a plan that can accommodate his cognitive limitations, I recommend that Mr. Fagone undergo a comprehensive neuropsychological assessment to identify his limitations and areas of preserved function. Id. 4. She also noted that “it would be helpful for Mr. Fagone to have a psychopharmacological evaluation with an experienced clinician who can consider medication trials to help him with his anxiety and attentional problems.” Id.

At the last court hearing it was hoped and expected that these evaluations would be undertaken as part of Mr. Fagone’s treatment at the STARR program in Fall River. Although he

did not participate in that program, as discussed more fully below, he hopes he will be given another opportunity to do so.

Violation of Supervised Release and Current Condition

Mr. Fagone is before the court charged with a violation of supervised release for having failed to comply with the terms of his supervised release by leaving a treatment program that had been arranged for him by his probation officer. Although he very much wanted to participate in that program, he was incredibly upset and disturbed by the fact that he did not have any clothes, other than the prison garb he was transported to the program in. It was this upset that caused him to leave the program to go pick up his clothing. Later that same evening he returned to the program in an effort to enter it, but was told he would not be allowed to do so.

Since returning to custody on August 3, 2016, Mr. Fagone has received treatment from both a psychiatrist and a licensed mental health professional at Wyatt Detention Center. He was started on medication and is currently taking medications for anxiety, depression and to help with sleep. These medications have been gradually increased over the past several months and have stabilized his mood, decreased his anxiety, and aided with his ability to sleep. He has not received treatment for substance abuse at Wyatt, although that is treatment he wants and that his current providers indicate he is very much in need of.

Mr. Fagone would still very much like to have the opportunity to receive the treatment he needs. He does not seek to terminate his supervised release, expressing the belief that if that would occur, there would be no one who would care about how he fares in the future.

Disposition

Mr. Fagone and the Government agree on the disposition being proposed to the Court except with respect to the time he should be incarcerated. Mr. Fagone seeks to have the period

of incarceration be limited to the time he has served. He and probation agree that following his incarceration, he should receive treatment in an inpatient dual diagnosis treatment program with follow on treatment in a long-term residential treatment program, with a termination of supervised release following this treatment, or with a limited time following the conclusion of treatment. Mr. Fagone contends that such a sentence is sufficient, but not greater than is necessary, to reflect the seriousness of the offense, afford adequate deterrence, protect the public and provide the defendant with needed treatment, 18 U.S.C. §3553(a), and is in the interests of justice.

Respectfully submitted,

/s/ Inga S. Bernstein

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